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Community Planning
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HOUSING ELEMENT AND FAIR SHARE PLAN

BOROUGH OF TENAFLY BERGEN COUNTY, NEW JERSEY

PREPARED FOR:

**BOROUGH OF TENAFLY PLANNING BOARD
BA# 2083.07**

November 26, 2008

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BERGEN COUNTY, NEW JERSEY**

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The original document was appropriately signed and sealed on November 26, 2008 in accordance with Chapter 41 of Title 13 of the State Board of Professional Planners.

**Joseph Burgis, P.P., AICP
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INTRODUCTION

In 1975 the New Jersey Supreme Court decided, in So. Burlington Cty. NAACP v. Borough of Mount Laurel, that every developing municipality in New Jersey had an affirmative obligation to provide for its fair share of affordable housing. In a subsequent decision in 1983, the Court acknowledged that the vast majority of municipalities in the State had ignored their constitutional obligation, and called for the State Legislature to enact legislation that would save municipalities from the burden of having the courts determine their affordable housing needs. The result was the establishment of the New Jersey Council on Affordable Housing (COAH), the state agency responsible for overseeing the manner in which the state's municipalities address their low and moderate income housing needs.

COAH had originally adopted in 1987, and again in 1994, a 'fair share' methodology to determine housing-need numbers for all municipalities in the state. The adopted combined first and second round housing need numbers for Tenaflly initially indicated a 181 unit affordable housing obligation; the Borough's obligation was subsequently modified a number of times by COAH. COAH's third round housing need number for Tenaflly is now 84 affordable housing units. ¹

In contrast to the above-noted COAH projection of affordable housing need, the following is noted:

1. The Borough has received a judgment of repose dated July 2, 2003 that addressed its second round obligation, wherein it was determined that the Borough was entitled to a vacant land adjustment through a court-approved plan that accommodated a total of 126 units (including 19 rental bonus credits). Tenaflly sought to address this obligation through a variety of inclusionary developments, a regional contribution agreement, accessory apartments, and senior housing (see Table 17 herein for a summary of the Second Round plan components).
2. The analysis set forth in this report indicates the Borough continues to be entitled to a vacant land adjustment pursuant to the new third round rules. The data reveals there are less than eleven acres of vacant land in Tenaflly, and after adjusting for environmental constraints and related factors pursuant to the regulations, only 3.57 acres of vacant developable acres remain in the Borough. This enables the Borough to seek an adjustment from the COAH-published 84 unit third round obligation since the Borough lacks sufficient suitable developable land to accommodate this additional development.
3. The imposition of COAH's eight unit per acre density standard and twenty percent setaside for municipalities such as Tenaflly that are in Planning Area #1, indicates that the 3.57 acres of remaining developable acreage would generate a need for six affordable housing units as part of the community's third round obligation. The growth projections for the Borough, when including non-residential and residential projections, suggests the Borough has an 18 unit growth share projection.

¹ Tenaflly's original housing-need number included a 'new construction' obligation of 149 units and a 'rehabilitation obligation' of 32 units. This second round obligation was subsequently adjusted to 159 affordable units, although the Court in its judgment of repose set it at 126 units. COAH now indicates that Tenaflly has a third round housing obligation of 84 units and a rehabilitation obligation of 62 units, which is designed to address the community's affordable housing needs to 2018. As detailed herein, this report takes exception to COAH's estimated growth projections for Tenaflly. The analysis contained herein indicates the Borough has a maximum housing need for an additional 18 units of affordable housing.

COAH has predicated its determination of Tenaflly's housing need, and ability to address that need, on a variety of factors, including prospective growth and the ability to accommodate that growth as reflected by their determination of vacant land in the community. Their analysis and mapping indicates that the Borough has 137 acres of vacant land. Our analysis disputes that assessment, as noted above. A review of their data finds it includes, in numerous instances, backyards of abutting residential lots, portions of golf course property, portions of school sites and religious institutions, a townhouse development, and public rights-of-way. A map of their vacant land assessment is provided in the back of this report, and can be contrasted with the Existing Land Use map that is based on Borough tax records, which is also provided at the end of this report.

The COAH rules provide that, prior to addressing a third round obligation, a municipality must first address its second round housing-need number. The accompanying plan seeks to address Tenaflly's second round 126 unit obligation by utilizing components of the Court-approved 2003 judgment of repose. This judgment of repose included a 33 unit vacant land adjustment and an RCA with the City of Paterson. The RCA was not finalized, and consequently, the Borough seeks an additional VLA adjustment to address the lack of a completed RCA.

To address the Borough's adjusted growth share obligation of 18 units, the plan proposes two inclusionary sites providing a total of 13 affordable rental dwelling units. One site, a 0.76 acre lot on Dean Drive, will have a total of 20 dwellings including 5 affordable rental units. The other site, 1.05 acres on Madison Avenue, will contain 32 dwellings, of which 8 will be affordable rental units. Pursuant to the COAH regulations, the Borough will be eligible to receive a maximum of 4 rental bonus credits, thereby affirmatively addressing 17 of the community's 18 unit affordable housing obligation. In order to address the Borough's 18th affordable unit, Tenaflly shall establish a market-to-affordable program whereby, pursuant to COAH's regulations, the Borough shall acquire a dwelling in the municipality and make it available as an affordable housing unit to an income qualified household. Details regarding the two aforementioned inclusionary sites and the manner in which the Borough meets its obligations is provided in the body of this document.

In creating this plan, we have relied on the Guidance Document of the Executive Director of the COAH dated October 30, 2008 that the increased density provided in an inclusionary zone would not generate a growth share obligation. If the Executive Director's Guidance Document is declared invalid or otherwise rescinded, the we reserve the right to revise this plan accordingly.

In addition to the above site components, the housing plan also contains a rehabilitation component that seeks to address the community's 62 unit rehabilitation obligation. The COAH regulations state "municipalities shall provide sufficient dollars to fund no less than half of the municipal rehabilitation component by the mid-point of substantive certification". The regulations indicate the funding is set at a rate of minimally \$10,000 per unit. This indicates the Borough must set aside a total of \$310,000 for this purpose. This money, available through the Borough's affordable housing trust fund, would be made available to units occupied by income-qualified households. The Borough of Tenaflly has contracted with Community Action Services, who shall administer the Borough's rehabilitation program. The Plan also notes that, as the Borough continually assesses its rate of growth, it may adjust its need for sites to address its affordable housing obligation, as determined necessary.

SECTION I: HOUSING ELEMENT

A. COMMUNITY OVERVIEW

The Borough of Tenaflly is located in eastern Bergen County. It shares a border with Englewood Cliffs and Englewood to the south, Bergenfield to the west and Cresskill and Alpine to the north. Tenaflly's entire eastern border is formed by the shoreline of the Hudson River.

Tenaflly has a land area of approximately 4.6 square miles. It is a fully developed community, with very little vacant developable land remaining. Residential development is the principle land use in the community. This is typified by detached single family dwellings, although there are a number of attached residential uses including two-family, three family and multi-family dwellings. The Borough also contains a modest central business district characterized by retail and service commercial uses on small lots, catering to the needs of the local populace. See the Existing Land Use map at the end of this report.

The developed character of the community is reflected in the vacant land study that was undertaken as part of this overall plan. The data reveals there is less than eleven acres of vacant land in the Borough. The study also reveals that, after deducting acreage that is environmentally constrained, there is only 3.57 acres of vacant developable land. This is shown on the environmental maps and vacant land maps presented at the end of this report.

Access to the region is excellent, with residents having immediate access to the Palisades Interstate Parkway and US 9W. The George Washington Bridge, Routes 46 and 95, and other regional roadways are also nearby.

B. INVENTORY OF MUNICIPAL HOUSING STOCK

This section of the housing element provides an inventory of the Borough's housing stock, as required by the MLUL. The inventory details housing characteristics such as age, condition, purchase/rental value, and occupancy. It also details the number of affordable units available to low- and moderate-income households and the number of substandard housing units capable of being rehabilitated.

1. Number of Dwelling Units. The State estimates that Tenaflly contained 5,144 dwelling units in 2008. A review of the available data reveals that the Borough's housing stock increased to its current level from 4,284 units in 1960. Growth effectively stopped in the 1990's but picked up again beginning in 2001, as reflected in the accompanying table.

Table 1: Dwelling Units (1960-2008 YTD) - Tenaflly, New Jersey

Year	Dwelling Units	Net Change (#)	Change (%)
1960	4,284	--	--
1970	4,619	+335	7.80
1980	4,753	+134	2.90
1990	4,898	+145	3.00
2000	4,897	-1	(-0.02)
2008*	5,144	+247	5.04

* Through February.

Sources: 2003 Bergen County Data Book; NJ Department of Community Affairs (DCA), The NJ Construction Reporter:
<http://www.state.nj.us/dca/codes/cr/conrep.shtml>

Nearly four out of five housing units in Tenaflly are owner-occupied. Most of the remaining

occupied units are renter-occupied. A total of 123 housing units, or 2.5% of the total number of dwelling units, were unoccupied when the 2000 US Census was taken. This is shown in the following table.

Table 2: Housing Units by Tenure and Occupancy Status (2000) - Tenaflly, New Jersey

Characteristics	Number	Percent
Owner-occupied	3,847	78.5
Renter-occupied	927	18.9
Vacant units	123	2.5
Total	4,897	100.0

Source: 2000 U.S. Census

2. Housing Characteristics. This section provides additional information on the characteristics of the Borough's housing stock, including the number of units in structures and the number of bedrooms. Residential structures in Tenaflly primarily consist of single-family detached units. Although the Borough has experienced a decline in the number of two-family dwelling units, between 1990 and 2000 there has been a substantial increase in attached single-family units. Multi-family developments of greater than 10 units comprise approximately 5% of the housing stock.

Table 3: Units in Structure (1990 and 2000) - Tenaflly, New Jersey

Units in Structure	1990		2000	
	Number	Percent	Number	Percent
Single Family, detached	3,917	80.0	3,966	81.0
Single Family, attached	103	2.1	140	3.0
2	372	7.6	332	6.7
3 or 4	79	1.6	88	1.7
5 to 9	61	1.2	98	2.0
10 to 19	184	3.8	110	2.2
20 or more	136	2.8	146	3.0
Other	46	0.9	17	1.7
Total	4,898	100.0	4,897	100.0

Source: U.S. Census, 1990 & 2000

Table 4: Number of Bedrooms in Housing Units (2000) - Tenaflly, New Jersey

Bedrooms	2000	
	Number	Percent
None	31	0.6
One	477	9.7
Two	579	11.8
Three	1,888	38.6
Four	1,224	25.0
Five or More	698	14.3
Total	4,897	100.0

Source: 2000 U.S. Census

3. Housing Age. Approximately 80 percent of the Borough's dwelling units were constructed prior to 1970. One-third of Tenaflly's dwelling units were built prior to 1939.

The following table, when compared to Table 1, is reflective of the significant tear down/rebuild phenomena that has occurred in Tenaflly over the past twenty years. For example, the number of dwellings in Tenaflly increased by 145 during the 1980's, according to the US census data. However, the data in the accompanying table indicates 275 new dwellings were constructed in the 1980s. The available data also indicates that the number of dwellings in Tenaflly remained virtually unchanged through the 1990s. However, the data below indicates there were 141 new dwellings constructed during this decade. The difference represents this tear down/rebuild phenomena.

Table 5: Year Structure Built - Tenaflly, New Jersey

Year Units Built	Number	Percent
1999 to March 2000	62	1.3
1995 to 1998	78	1.6
1990 to 1994	63	1.3
1980 to 1989	275	5.6
1970 to 1979	206	4.2
1960 to 1969	499	10.2
1950 to 1959	1,250	25.5
1940 to 1949	861	17.6
1939 or earlier	1,603	32.7
Total	4,897	100.0

Source: 2000 U.S. Census

4. Housing Conditions. Table 6 provides an indication of overcrowded housing units, represented by units containing more than one occupant per room. This table indicates the vast majority of dwellings in Tenaflly are not over crowded.

**Table 6: Occupants Per Room (2000)
Tenaflly, New Jersey**

Occupants Per Room	Number of Units	Percent
0.50 or less	3,520	73.7
0.51 to 1.00	1,068	22.4
1.01 to 1.50	117	2.4
1.51 to 2.00	61	1.3
2.01 or more	8	0.2
Total Occupied Units	4,774	100.0

Source: 2000 U.S. Census

Table 7 presents additional detail regarding housing conditions, including the presence of complete plumbing and kitchen facilities and the type of heating equipment used.

Table 7: Equipment and Plumbing Facilities (2000) - Tenaflly, New Jersey

Facilities	2000	
	Number	Percent
<u>Kitchen:</u>		
With Complete Facilities	4,747	99.4
Lacking Complete Facilities	27	0.6
<u>Plumbing:</u>		
With Complete Facilities	4,774	100.0
Lacking Complete Facilities	0	0.0
<u>Heating Equipment (Occupied Units):</u>		
Standard Heating Facilities	4,764	99.8
Other Means, No Fuel Used	10	0.2

Source: 2000 U.S. Census

5. Purchase and Rental Values. Rental values increased between 1990 and 2000, with the median gross rent increasing from \$961 to \$1,186.

Table 8: Gross Rent of Specified Renter-Occupied Housing Units (1990 and 2000) - Tenaflly, New Jersey

Rent	1990		2000	
	Number	Percent	Number	Percent
Less than \$250	50	5.4	34	3.7
\$250 to \$499	8	0.9	18	1.9
\$500 to \$749	177	19.2	122	13.2
\$750 to \$999	254	27.5	125	13.5
\$1,000 or more	410	44.4	552	59.6
No cash rent	25	2.7	75	8.1
Total	924	100.0	926	100.0
Median Gross Rent	\$961		\$1,186	

Source: U.S. Census, 1990 & 2000

Similarly, the median values of owner-occupied units increased between 1990 and 2000, from \$353,200 to \$403,600. These values have continued to increase significantly since 2000.

Table 9: Value of Specified Owner-Occupied Housing Units (1990 and 2000)
Tenaflly, New Jersey

Value Range	1990	Value Range	2000
Less than \$75,000	38	Less than \$100,000	35
\$75,000 to \$99,999	21		
\$100,000 to \$124,999	27	\$100,000 to \$149,000	17
\$125,000 to \$149,999	41		
\$150,000 to \$174,999	69	\$150,000 to \$199,999	145
\$175,000 to \$199,999	169		
\$200,000 to \$249,999	492	\$200,000 to \$299,999	769
\$250,000 to \$299,999	459		
\$300,000 to \$399,999	659	\$300,000 to \$399,999	783
\$400,000 to \$499,999	418	\$400,000 to \$499,999	569
\$500,000 or more	940	\$500,000 to \$749,999	574
		\$750,000 to \$999,999	364
		\$1,000,000 or more	283
TOTAL	3333	TOTAL	3,539
1990 Median Value	\$353,200	2000 Median Value	\$403,600

Source: U.S. Census, 1990 & 2000

6. Number of Units Affordable to Low- and Moderate-Income Households. Based on the most current COAH regional income limits, the median household income for a three-person household in COAH Region 1 (Tenaflly's housing region comprising Bergen, Hudson, Passaic and Sussex Counties), is \$69,365. A three-person moderate-income household, established at no more than 80 percent of the median income, would have an income not exceeding \$55,492.

An affordable sales price for a three person moderate-income household earning 80 percent of the median income is estimated at approximately \$150,000. This estimate is based on the UHAC affordability controls outlined in N.J.A.C. 5:80-26.1.

For renter-occupied housing, an affordable monthly rent for a three-person household is estimated at \$1,340. According to 2000 U.S. Census data, approximately 32 percent of the Borough's rental units had a gross rent less than \$1,000.

7. Substandard Housing Capable of Being Rehabilitated. COAH provides the number of units in a community that are in need of rehabilitation and are not likely to experience "spontaneous rehabilitation." Tenaflly's rehabilitation share is 62 units. This item is further explained in the Fair Share Plan section of this document.

C. PROJECTION OF MUNICIPAL HOUSING STOCK

The Fair Share Plan section of this document will include a detailed projection of the municipal housing stock, pursuant to COAH's rules for establishing the "growth share" component of the fair share obligation. This section will also identify historical and projected growth trends.

D. POPULATION ANALYSIS

The MLUL requires that the housing element provide data on the municipality's population, including population size, age and income characteristics.

1. Population Size. The Borough's population has been relatively stable since the dramatic increase that occurred during the 1940's and 1950s. Since 1960, the Borough population has ranged from a high of 14,827 in 1970 to a low of 13,326 in 1990. The population estimate for 2006 (the last year for which data is available) is 14,390. Table 10 outlines population growth and decline in the Borough.

Table 10: Population Growth - Tenafly, New Jersey

Year	Population	Change(#)	Change (%)
1900	1,746	--	--
1910	2,756	1,010	57.8
1920	3,585	829	30.1
1930	5,669	2,084	58.1
1940	7,413	1,744	30.8
1950	9,651	2,238	30.2
1960	14,264	4,613	47.8
1970	14,827	563	3.9
1980	13,552	(1,275)	(8.6)
1990	13,326	(226)	(1.7)
2000	13,806	480	3.6
2006*	14,390	584	4.2

* NJ Department of Labor and Workforce Development (LWD) estimate
Sources: 2007 Bergen County Data Book; NJ Department of LWD

- a. Age Characteristics. The Borough's age characteristics are outlined in the table below. At the time of the most recent census, 22.8% of the population was under 15 years old, while 15.1% of the population was 65 years of age or older. The 2000 median age of Borough residents was nearly 41 years. This is slightly higher than the Bergen County median age of 39.1 years.

Table 11: Age Characteristics (2000)
Tenaflly, New Jersey

Age Group	Total	% Total
Under 5	904	6.5
5-9	1,120	8.1
10-14	1,109	8.0
15-19	1,046	7.6
20-24	371	2.7
25-29	361	2.6
30-34	639	4.6
35-39	1,112	8.1
40-44	1,401	10.1
45-49	1,233	8.9
50-54	999	7.2
55-59	776	5.6
60-64	643	4.7
65-69	519	3.8
70-74	545	3.9
75-79	447	3.2
80-84	287	2.1
85 and over	294	2.1
Total	13,806	100.0
Median Age	40.9	

Source: 2000 U.S. Census

3. Average Household Size. The average Borough household size decreased between 1980 and 1990 and increased again between 1990 and 2000.

Table 12: Average Household Size (1980-2000)
Tenaflly, New Jersey

Year	Borough Population	Household Population	Total Households	Average Household Size
1980	13,552	13,425	4,677	2.87
1990	13,326	13,176	4,724	2.79
2000	13,806	13,650	4,774	2.86

Source: 2003 Bergen County Data Book

4. Household Income. The median household income for Tenaflly households increased over 32 percent between 1990 and 2000, from \$68,742 to \$90,931. 47 percent of Tenaflly households earned in excess of \$100,000 in 1999. Detailed household income figures are provided in the accompanying Table 13 below.

Table 13: Household Income Distribution (1989 and 1999)
Tenaflly, New Jersey

Income Category	1989		1999	
	Number	Percent	Number	Percent
Less than \$10,000	235	4.9	198	4.1
\$10,000 to \$14,999	182	3.8	116	2.4
\$15,000 to \$24,999	255	5.3	244	5.1
\$25,000 to \$34,999	352	7.4	258	5.4
\$35,000 to \$49,999	585	12.3	392	8.2
\$50,000 to \$74,999	990	20.8	722	15.1
\$75,000 to \$99,999	589	12.4	599	12.5
\$100,000 to \$149,999	744	15.6	815	17.0
\$150,000 or more	836	17.5	1,437	30.1
Total	4,768	100.0	4,781	100.0
Median	\$68,742		\$90,931	

Source: U.S. Census, 1990 & 2000

E. EMPLOYMENT ANALYSIS

The MLUL requires that the housing plan include data on employment levels in the community. The following tables present information on the Borough's employment characteristics.

1. Employment Status. Table 14 provides information on employment status for population 16 and over in the Borough. Approximately 60 percent of the Borough's population over the age of 16 was employed, with only 2.2 percent unemployed.

Table 14: Employment Status- Population 16 & Over (2000)
Tenaflly, New Jersey

Employment Status	Number	Percent
In labor force	6,559	63.1
Civilian labor force	6,559	63.1
Employed	6,321	60.8
Unemployed	238	2.2
Armed Forces	0	0
Not in labor force	3,835	36.9
Total Population 16 and Over	10,394	100.0

Source: 2000 U.S Census

2. Employment Characteristics of Employed Residents. The following two tables detail information on the employment characteristics of Tenaflly residents. Table 15 details occupation characteristics and Table 16 details industry characteristics.

Table 15: Employed Residents Age 16 and Over, By Occupation (2000)
Tenaflly, New Jersey

Occupation	Number	Percent
Management, professional, and related occupations	3,690	58.3
Service occupations	487	7.7
Sales and office occupations	1,650	26.1
Farming, fishing, and forestry occupations	8	0.1
Construction, extraction, and maintenance occupations	172	2.7
Production, transportation, and material moving occupations	314	5.0
Total	6,321	100.0

Source: 2000 U.S. Census

Table 16: Employed Residents Age 16 and Over, By Industry (2000)
Tenaflly, New Jersey

Industry	Number	Percent
Agriculture, Forestry, Fisheries & Mining	0	0.0
Construction	142	2.2
Manufacturing	503	8.0
Transportation and warehousing, and utilities	194	3.1
Wholesale Trade	467	7.4
Retail Trade	570	9.0
Information	302	4.8
Finance, Insurance, & Real Estate	708	11.2
Education, health and social services	1,645	26.0
Arts, entertainment & Recreational Services	238	3.8
Professional & Related Services	1,049	16.6
Public Administration	151	2.4
Other Services	352	5.6
Total	6,321	100.0

Source: 2000 U.S. Census

SECTION II: HOUSING OBLIGATION

A. INTRODUCTION

The methodology for determining the Borough's third-round affordable housing obligation changed significantly from the prior round regulations. Under COAH's third-round rules, a municipality's third-round affordable housing obligation is a function of three components:

- Rehabilitation Share
- Remaining Prior Round Obligation
- Growth Share

The growth share component represents the most significant change from the prior round, as it requires that each municipality determine its own affordable housing obligation based on the amount of residential and non-residential growth anticipated over the third-round period from 2004 to 2018. Each of the three components is combined to determine the municipality's total affordable housing obligation. More detail on each component is provided below.

1. Rehabilitation Share. The rehabilitation share component of the affordable housing obligation is based on the municipality's existing housing deficiencies. Rehabilitation share is defined as "the number of deficient housing units occupied by low and moderate income households within a municipality." A "deficient housing unit" is "a unit with health and safety code violations that require the repair or replacement of a major system." A major system includes any of the following: weatherization, roofing, plumbing, heating, electricity, sanitary plumbing, lead paint abatement and/or load-bearing structural systems.

COAH publishes the rehabilitation share for each municipality. It has determined that Tenaflly has a 62 unit rehabilitation share. Tenaflly shall rely upon COAH's determination that there are 62 units in need of rehabilitation in the community.

Characteristics indicating a need for rehabilitation include such elements as:

- Persons Per Room: 1.01 or more persons per room in housing units built in 1939 or before.
 - Plumbing Facilities: Inadequate plumbing sufficient for rehabilitation as indicated by a lack of hot and cold piped water, a flushing toilet, or a bathtub/shower.
 - Kitchen Facilities: Inadequacy indicated by non-presence of kitchen facilities within unit or non-presence of one of three components, including a sink with piped water, a stove or refrigerator.
2. Remaining Prior Round Obligation. Prior Round Obligation is comprised of the prior rounds of prospective need (Rounds 1 and 2) and the reallocated present need from Round 2. Since COAH used census data to adjust previously published first- and second-round obligation numbers in order to correct for under/overestimates, it has provided each municipality with a new first- and second-round obligation number in an appendix to its third-round rules. Tenaflly's first- and second-round obligation new construction number as determined through its judgment of repose is 126 units.

The plan set forth herein calls for the Borough to address its prior round obligation through a combination of inclusionary developments, accessory apartments, and group homes, as provided for in the 2003 judgment of repose. This is detailed in a subsequent section of this report.

3. Growth Share. The growth share portion of a municipality's fair share obligation is based on the projected residential and employment growth in the municipality over the period between 2004 and 2018. As previously noted, COAH has calculated that Tenaflly has an 84 unit growth share obligation (although, as detailed below, the Borough has adjusted this growth share pursuant to COAH regulations to 18 units).

COAH defines growth share as:

“The affordable housing obligation generated in each municipality by both residential and non-residential development from 2004 through 2018 and represented by a ratio of one affordable housing unit for every four market-rate housing units constructed plus one affordable housing unit for every 16 newly created jobs as measured by new or expanded non-residential construction within the municipality.”

COAH also provides that each individual municipality's actual growth between 2004 and 2018 generates an affordable housing obligation. For residential development, one affordable housing unit obligation is generated for every four market rate residential units constructed in the municipality. For non-residential development, one unit of affordable housing obligation is generated for each 16 jobs created in the community. Job creation estimates are based on the amount of new non-residential square footage developed within the community.

The Borough takes exception with COAH's estimate of its growth potential. The lack of vacant land, along with an assessment of past and projected growth, indicates Tenaflly's adjusted need is 18 units. The determination that COAH over-estimates the Borough's growth potential is predicated on a number of factors. These include the fact that COAH's assessment of growth does not reflect the community's historic development trends, and that Tenaflly contains 137 acres of vacant land (see map at end of report), while a review of tax data reveals it is less than eleven acres, of which only 3.57 acres is developable per COAH regulations.

The following section contains development projections and a determination of the growth share assessment for the third-round obligation.

B. CALCULATION OF AFFORDABLE HOUSING OBLIGATION

The calculation of the Borough's affordable housing obligation is detailed below.

1. Rehabilitation Share. Per the new third round rules, Appendix B, the Borough has a rehabilitation share of 62 units.
2. Remaining Prior Round Obligation. Appendix C of the new COAH rules indicates a recalculated prior round new construction obligation of 159 units. However, the 2003 judgment of repose calculated this at 126 units. The Borough's prior round plan addressed its new construction obligation through a combination of credits, inclusionary development, accessory apartments, a group home, a regional contribution agreement, and a vacant land adjustment. The prior round plan's development and RCA components are presented below.

Table 17: Original Second Round Plan Components (as of July 2005)
Tenaflly, New Jersey

Plan Component	Total Units	Affordable Units/Bonuses
Markay Commons (Formerly Kim Site)	21 units	4 rental units 4 rental bonus credits
Regional Contribution Agreement with City of Paterson	30 units	30 units
Accessory Apartments	10 units	10 units
JMP Tenaflly (Shopwell) Site	144 units	17 units
Grove Street	44 units	9 units
Senior Housing	32 units	32 senior units* 10 rental bonus credits

The recalculated pre-credited need of 126 units affects the Borough's prior round components because it reduces the maximum number of age restricted units to 32 units ($126 \times .25$). The eligible number of rental bonus credits is reduced to 32 units ($126 \times .25$).

* Senior affordable rental units receive 1.33 units credit for each rental unit.

This second round plan is now to be adjusted to reflect the recent legislation that has eliminated RCA's. The Borough seeks credits, reductions and adjustments as detailed in the accompanying table, consistent with its judgment of repose that determined its second round obligation was 126 units.

**Table 18: Updated Second Round Plan Components and Status
Tenafly, New Jersey**

Plan Component	Units*	Rental Bonus*	Total Units/ Credits	Status
Markay Commons (Kim Site)	4 rental units	4 rental bonus credits	8	Final Site Plan Approval 10/28/04. Presently before Pl Bd for amended site plan
Accessory Apartments	10 units	--	10	Ord adopted 6/02
JMP Tenafly (Shopwell) Site	17 units	--	17	Under construction
Grove Street	9 units	--	9	Under construction
ARC Group Home/55 Burlington Rd	5 units	5 rental bonus credits	10	Completed
Senior Housing**	32 sr rental units	10 rental bonus credits	42	Completed
Vacant Land Adjustment ***	30		35	Judgment of repose
Total	107	19	126	---

* The recalculated pre-credited need of 126 units affects the Borough's prior round components reduces the maximum number of age restricted units that can be eligible for credit to 32 units (126 x .25). The eligible number of rental bonus credits is reduced to 32 units (126 x .25).

** Senior affordable rental units receive 1.33 units credit for each rental unit.

*** Borough is seeking a 35 unit vacant land adjustment based on the judgment of repose.

3. **Growth Share.** The growth share component of the Borough's affordable housing obligation is calculated based on the projected amount of residential and non-residential growth anticipated between 2004 and 2018. This projection involves a number of steps, including the formulation of a baseline projection that must ultimately be reconciled with the detailed projection resulting from an analysis of approved, pending and anticipated development applications.

Once the detailed analysis is complete and reconciled with the baseline projections, this growth is translated into an affordable housing obligation, based on a standard of one affordable housing unit for every four market rate units that are built and every 16 jobs that are created. Job creation is directly tied to the amount of non-residential floor space constructed.

The following growth share calculation is presented below, separated into residential growth and non-residential growth categories.

a. **Calculation of Residential Growth Share.**

- i. **Baseline Residential Growth Projection.** The baseline growth projection for residential development is set forth in Appendix F of the COAH regulations. They suggest that the Borough's housing growth shall consist of 241 dwelling units between the years 2004 and 2018. This is shown below.

Table 19: Household Growth Estimates 2004 - 2018
Tenaflly, New Jersey

2018 Household Estimate	-	2004 Household Estimate	=	Household Growth
5,170		4,929		241

Source: Council On Affordable Housing

- ii. Actual Growth Projection. COAH permits municipalities to conduct a detailed analysis of historical trends, pending and approved development applications, and other local knowledge to generate a growth projection for the community. This projection will be compared to their estimated projection. The actual projection is determined through a series of steps and analyses, as shown below.

Historical Trends in Residential Development. Data for the years 1995-2008 YTD is presented in order to determine the Borough's historical residential growth trends and to determine actual growth since 2004, as evidenced by certificates of occupancy (COs) and demolition permits issued. Historical trends will be used to project residential growth in years to come.

Table 20: Historical Trends in Residential Development
Analysis of Certificates of Occupancy and Demolition Permits, 1995-2008 YTD
Tenaflly, New Jersey

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008 (thru 9/15/08)
COs Issued	9	6	13	13	21	20	22	30	33	35	33	41	43	35
Demo Permits Issued	9	8	11	10	17	24	20	26	18	20	36	26	26	14
Inclusionary Developments	-	-	-	-	-	-	-	-	-	-	4(a)	12(a)	6 (a)	17(a)
Net Growth	0	-2	2	3	4	-4	2	4	15	15	-7	3	11	4

Source: NJ DCA, The NJ Construction Reporter: <http://www.state.nj.us/dca/codes/cr/conrep.shtml>; 2008 data from Tenaflly Bldg Dept.

(a) In 2005 4 were for The Heights; in 2006 12 of 41 co's were for The Heights; in 2007 6 of the 43 co's were for The Heights and through 9/15/08 3 of the 35 were for the Heights and 14 of the 35 were for Grove St.

From 1995 through 2008 YTD, the Borough experienced slow growth. There were, on average, 25 certificates of occupancy (CO's) issued annually, while there were nearly 19 demolition permits issued annually during that same time period. This resulted in a net growth of only 6 units per year. In addition, as noted in the footnote above, for the years 2005 through 2008, 39 of the 150 CO's are attributable to affordable housing developments, thereby reducing the number of annual CO's, exclusive of affordable housing CO's, to less than four per year.

Projected Residential Development. COAH requires that residential development be projected through 2018. This analysis involves the documentation of residential projects that have been

approved but have not yet received COs, pending residential development applications, and anticipated residential development. The table below details the approved and pending residential development projections.

**Table 21: Net Change in Number of Residential Units
Approved Or Pending Residential Development Applications
Tenaflly, New Jersey**

	# of New Dwelling Units
Approved Projects	
Fruchtman	1
Thistle	1
Pane	1
Timeless	1
Kim Building (pending) (aff housing)	21
31 Columbus Dr.	1
92 Magnolia Ave.	1
280 Tenaflly Rd.	1
533 Knickerbocker Rd. (pending)	1
Total	29

Source: Borough of Tenaflly (through 9/15/08)

Anticipated development is that which will likely occur before 2018, based on site-specific analysis of remaining developable parcels and local knowledge. This analysis includes an estimate of other projected development, based in part on historical growth trends. The analysis of anticipated development applications is based on existing vacant sites that are expected to be developed for residential use before 2018. Yield calculations are based on existing zoning and other features that may impact the amount of development, such as the presence of environmental features, etc. It is anticipated the number of CO's to be issued within the 2008-2018 time period is 29.

- iii. Comparison: COAH Projection and Actual Projection. If the actual projection is greater than or equal to the COAH projection, the actual projection has an automatic presumption of validity. However, if this projection is less than the baseline, COAH may deny substantive certification based on this fact, unless the validity of the alternate projection can be affirmatively established. The Borough's position is that COAH's estimate of 241 additional residential units by 2018 overestimates growth. The Borough estimates that an additional 29 dwellings will be built by 2018. This figure is a function of the lack of vacant land and historic development trends associated with non-affordable housing development, as detailed above, and current economic conditions.
- iv. Determining the Residential Growth Share. In this step, the projected growth is adjusted based on that portion of the projection that includes affordable units that are to be

constructed in accordance with the second round certified plan. All affordable housing units and associated market rate units that are part of an inclusionary development may be excluded.

The residential growth share is determined by taking twenty percent of the Final Net Growth projections

Table 22: Residential Growth Share Obligation

Tenaflly, New Jersey

	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18	Total
Final Net Growth	15	-7	3	11	4	1	1	1	1	1	1	1	1	-	-	34
Residential Growth Share (20%)	3	-1.4	0.6	2.2	0.8	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	-	-	6.8

b. Calculation of Non-Residential Growth Share

- i. COAH Growth Projection. COAH projects that the number of jobs in Tenaflly will increase by 567 by the year 2018. This is detailed in the following table.

Table 23: Non-Residential Growth Projection

Tenaflly, New Jersey

2018 Employment Estimate	-	2004 Employment Estimate	=	Employment Growth
4,660	-	4,093	=	567

Source: New Jersey Council On Affordable Housing

- ii. Actual Growth Projection. COAH also permits a municipality to prepare a detailed analysis of historical trends, pending/approved development applications, and other local knowledge to generate an actual non-residential growth projection for the Borough. This projection is then compared to COAH's projection. The detailed projection is determined through a series of similar steps and analyses, as shown below.

The first step in this analysis is to assess historical trends in non-residential development. In this step, historical data for the years 1996-2008 YTD is examined. This data establishes the Borough's historical non-residential growth trends and provides actual growth figures to year-to-date 2008. As with the residential analysis, growth is indicated by certificates of occupancy and demolition permits issued. Historical trends are then utilized to help predict non-residential growth. The table presents this information based on the total square footage by type of non-residential development (i.e. office, retail, etc.).

Table 24: Historical Trends in Non-Residential Development, 1996-2008 YTD
Analysis of Certificates of Occupancy and Demolition Permits, Square Footage by Use Type
Tenafly, New Jersey

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008 YTD*
Certificates of Occupancy Issued (sf)													
Office	0	0	1,094	0	28,481	0	4,844	0	4,485	12,750	3,669	616	0
Assembly (A3)	100	0	732	0	0	0	4,024	0	0	0	0	38,074	0
Institutional	0	0	0	0	0	0	0	0	0	0	0	0	0
Education	0	0	0	0	0	0	0	3,400	0	0	0	9,980	0
Storage	0	0	0	0	0	0	0	0	3,155	0	0	0	0
Mercantile	0	0	0	0	0	0	0	0	0	0	0	0	0
Demolition Permits Issued (sf)													
Office	0	0	0	0	0	0	0	0	0	4,316	0	0	0
Assembly (A3)	0	0	0	0	0	0	0	0	0	0	0	0	0
Mercantile	0	0	0	0	0	0	1,204	879	0	0	0	0	0
Institutional	0	0	0	3,554	0	0	0	0	0	0	0	0	0
Education	0	0	0	0	0	0	0	0	0	0	0	0	0
Storage	0	0	0	0	0	0	0	0	0	0	0	0	0

* Through September 15, 2008

Source: NJ DCA, The NJ Construction Reporter: <http://www.state.nj.us/dca/codes/cr/conrep.shtml>

The data for 2004 through YTD 2008 is translated into employment growth, based on the multipliers provided in Appendix E of the Substantive Rules. This is shown in the table below.

Table 25: Actual Non-Residential Growth Share, 2004-2008 YTD
Tenafly, New Jersey

	2004		2005		2006		2007		2008 YTD*		Total Jobs
	Sq. Ft.	Jobs	Sq. Ft.	Jobs	Sq. Ft.	Jobs	Sq. Ft.	Jobs	Sq. Ft.	Jobs	
Certificates of Occupancy											
Office (B)	4,485	12.5	12,750	35.7	3,669	10.3	616	1.7	0	0	60.2
Storage (S)	3,155	3.2	0	0	0	0	0	0	0	0	3.2
Mercantile (M)	0	0	0	0	0	0	0	0	0	0	0
Assembly (A3)	0	0	0	0	0	0	38,074	60.9	0	0	60.9
Subtotals	7,640	15.7	12,750	35.7	3,669	10.3	38,690	62.6	0	0	124.3
Demolition Permits											
Office (B)	0	0	4,316	12.1	0	0	0	0	0	0	12.1
High Hzrd Mftg (H)	0	0	0	0	0	0	0	0	0	0	0
Mercantile (M)	0	0	0	0	0	0	0	0	0	0	0
Subtotals	0	0	4,316	12.1	0	0	0	0	0	0	12.1
Total	7,640	15.7	8,434	23.6	3,669	10.3	38,690	62.6	0	0	112.2

* 2008 YTD numbers through 9/15/08

Source: NJ DCA, The NJ Construction Reporter: <http://www.state.nj.us/dca/codes/cr/conrep.shtml>

Anticipated Non-Residential Development. COAH requires that non-residential development be projected to 2018. This analysis involves the identification of all prospective non-residential projects, including those approved but not receiving COs, any pending non-residential development applications, and anticipated non-residential development. Anticipated development is that which will likely occur before 2018, based

on site-specific analysis of remaining developable parcels. This analysis includes an estimate of other projected non-residential development, based in part on historical growth trends. The following tables project the estimated square footage and job growth associated with each development.

**Table 26: Projected Non-Residential Square Footage and Jobs
Approved and Pending Development Applications
Tenaflly, New Jersey**

Approved Projects	Square Footage	Jobs
Paideia Montessori School E Schools	4,842	-
Clinton Inn Lodging, LLC R1 Hotel (See Note 1 below)	-300	-
JMP Tenaflly, LLC Commercial Bldg	11,000	(1)
DiFeo BMW Auto Repair Facility	41,340	61.4 (2)
11 Hillside Ave. Retail/Office Bldg	3,686	6.6 (3)
50 Hudson Ave. Bank	3,779	(1)
11 Harold St. House of Worship	27,770	-
411 E. Clinton Ave. Community Center Expansion	1,343	--
195 County Rd. Tennis & Fitness Facility	4,461	7.1
115 County Rd., LLC Bank (pending)	4,214	-9.9 (4)
Tamara Garber (B 1311, L 22) Restaurant (pending)	2,276	7.3
Total Jobs	-	72.5

(1) Part of inclusionary development.

(2) Includes removal of a 5,500 sq ft funeral home.

(3) Includes removal of 588 sq ft office

(4) Includes removal of 5,600 sq ft restaurant. 2,800 sq ft construction, 994 sq ft garage & 180 sq ft retail structure.

Source: Borough of Tenaflly, as of 9/15/08

The analysis of anticipated development applications is based on existing sites that are expected to be developed for non-residential use before 2018. Yield calculations are based on existing zoning and other features that may impact the amount of development, such as the presence of environmental restraints, etc. It is anticipated that, based on the fully developed character of the community, and the fact that a significant portion of the Borough's non-residential areas have been upgraded recently, leaving few sites for additional development, that by the year 2018 few additional jobs would be created locally. As required by COAH, the Borough will regularly reassess this to determine if an adjustment in the Borough's projection, and consequently an adjustment in the Housing Plan, is warranted.

- iii. Comparison: COAH Projection and Actual Projection. If the actual projection is greater than or equal to the COAH projection, the actual projection has an automatic presumption of validity. If this projection is less than COAH's, COAH may deny substantive certification unless the validity of the alternate projection can be affirmatively established. In this case, the modest projection is based upon historic development patterns and the lack of land for additional development.
- iv. Determining the Non-Residential Growth Share. The non-residential growth share obligation is determined by dividing the final projected employment growth by 16, based on the requirement that one affordable unit be constructed for every 16 jobs created. This would indicate the Borough has an 11.5 unit obligation associated with its employment growth.

Total Growth Share Obligation: Residential and Non-Residential Development. The complete growth share projection consists of the 11.5 units associated with employment growth and the 6.8 units associated with residential development, which equals 18.3 units, or rounded to 18 units.

This 18 unit figure is consistent with the methodology required by COAH in their procedure to determine adjusted growth share based on land capacity. See the Summary of Adjusted Growth Share Projection Based on Land Capacity (the COAH worksheets) placed in the appendix of this report.

SECTION III: FAIR SHARE PLAN

A. PLAN SUMMARY

This section of the document details the projects and mechanisms which may be used to meet the Borough's affordable housing obligation. Tenaflly was assigned a rehabilitation share of 62 units and a growth share obligation of 84 units. As detailed above, the analysis of the community's developed character, its historic development pattern, its projected growth, and vacant land adjustment indicates its adjusted growth share obligation is 18 affordable housing units. Through a judgment of repose the Borough is also obligated to address a 126 unit prior round obligation. The manner in which this obligation is addressed is detailed below.

Prior Round Obligation. The Borough has a prior round obligation of 126 units. This is being addressed through a variety of mechanisms, as detailed in the accompanying table.

**Table 27: Plan to Address Prior Round Obligation
Tenaflly, New Jersey**

Plan Component	Units	Rental Bonus	Total Units/Credits
Markay Commons (Kim Site)	4 units	4 rental bonus credits	8
Accessory Apartments	10 units	--	10
JMP Tenaflly (Shopwell) Site	17 units	--	17
Grove Street	9 units	--	9
ARC Group Home/55 Burlington Rd	5 units	5	10
Senior Housing	32 senior rental units	10 rental bonus credits	42
Vacant Land Adjustment	30	---	30
Total	107	19	126

As noted above, the Borough is seeking to increase the previously approved (through its judgment of repose) vacant land adjustment. The Courts had previously determined that there was insufficient vacant land to address its remaining second round obligation. The fact the Borough was not able to finalize its RCA with the City of Paterson prior to the enactment of A-500 does not alter the conclusion that the Borough lacked sufficient land to address its second round housing need number. Tenaflly had completed its agreement with Paterson, and was awaiting approval of a project by the City when A-500 was adopted.

Rehabilitation Share. The Borough plans to implement a rehabilitation program to address its 62-unit rehabilitation share in accordance with the third round rules. The COAH regulations states "municipalities shall provide sufficient dollars to fund no less than half of the municipal rehabilitation component by the mid-point of substantive certification". The regulations indicate the funding is set at a rate of minimally \$10,000 per unit. This indicates the Borough must set aside a total of \$310,000 for this purpose. This money, available through the Borough's affordable housing trust fund, would be made available to units occupied by income-qualified households. The Borough of Tenaflly has contracted with Community Action Services, who shall administer the Borough's rehabilitation program.

Growth Share Obligation. The Borough has an adjusted growth share of 18 units. This was calculated in Section II of this plan based on projected residential and non-residential growth in the community.

B. Plan Components for Third Round

The Borough will address its 18 unit growth share obligation through inclusionary development of two sites and the acquisition of an existing market rate dwelling unit that will be offered to an income qualified household as an affordable dwelling. . The two sites, and how they will serve to assist the municipality in meeting its affordable housing obligation, are described below. The market-to-affordability program for one unit is also described below

1. Site No. 1 is located on the westerly side of Dean Drive, north of Westervelt Ave. It occupies an area of 0.76 acres and is rectangular in shape. It is identified as Block 906 Lot 2, 3 & 4. As depicted in the attached concept plan, the site can accommodate 20 units. The Borough will impose a 25 percent setback, resulting in 5 affordable dwellings on-site. All of these affordable units would be required to be rental units.

An aerial provided in the appendix depicts the site's location and surrounding development pattern. A concept plan and floor plan depicting the manner in which the site can be developed with 20 units including 5 affordable units is also provided in the appendix.

2. Site No. 2 is a 1.05 acre lot at the southwest corner of Madison Avenue and North Summit Street. It is identified as Block 1306 Lot 1, 2 & 3. As depicted in the attached concept plan, the site can accommodate 32 units. The Borough will impose a 25 percent setback on this site, resulting in the site yielding 8 affordable dwellings. All affordable dwellings will be required to be rental units.

An aerial provided in the appendix depicts the site's location and surrounding development pattern. A concept plan and floor plan depicting the manner in which the site can be developed with 32 units including 8 affordable units is also provided in the appendix.

3. The above noted 13 affordable rental dwelling units generate a total of four rental bonus credits.
4. In order to address the remaining affordable obligation, for one unit, Tenaflly shall establish a market-to-affordable program whereby, pursuant to COAH's regulations, the Borough shall acquire a dwelling in the municipality and make it available as an affordable housing unit to an income qualified household. As soon as the Borough has identified the specific dwelling that will become the market-to-affordable unit, it will notify COAH.

Site Suitability Criteria. COAH's rules at NJAC 5:97-6.4 'Zoning For Inclusionary Development' are addressed as follows:

1. Site Suitability: The two sites noted above are suitable as defined in COAH's regulations at NJAC 5:97-3.13 "Suitable Site". There are no encumbrances that precludes the development of affordable housing on the properties. The sites are adjacent to and/or nearby other residential land uses, as shown on the aerials referenced above and as can be seen in the Existing Land Use of the municipality that is provided in the appendix of this report. The Dean Drive site fronts on Dean Drive, and is convenient to the Tenaflly central business district. The Madison Avenue site is in close proximity to a 149 unit multi-family residential development, and is nearby the Tenaflly business district. Neither site is listed on any state or federal historic register, nor are they within any historic district.

According to the Borough, water and sewer infrastructure are currently available at the sites and there is sufficient water and sewer capacity to meet the needs of the developments. The sites can be developed consistent with the provisions of the Residential Site Improvements Standards and all other state regulations such as those of the Department of Environmental Protection.

Both sites are located in the Metropolitan Planning Area PA-1 pursuant to the 2001 Policy Map of the State Development and Redevelopment Plan (SDRP). Pursuant to NJAC 5:97-3.13(b), the PA1 designation of the sites provides a presumption of validity regarding consistency with the SDRP. According to COAH's regulations, a PA-1 site is the preferred location for a municipality to address its affordable housing obligation.

2. Amenities: The affordable units at the two proposed sites will have the same access to any community facilities that are offered to market rate units. They shall also have the same heating, electric, water and sewerage sources provided to the market rate dwellings.
3. Administrative Entity: The developers of the two sites shall be required to contract with an experienced affordable housing administrator to administer the affordable units. The affordable units will have 30 year affordability controls and will be affirmatively marketed. The experienced administrator will income qualify applicants and will provide long-term administration of the units in accordance with COAH's rules at NJAC 5:97 et seq. and the UHAC per NJAC 5:80-26.
4. Low/Moderate Income Split: At least half of all the affordable units at the two sites will be affordable to low income households pursuant to NJAC 5:97-3.3 and the UHAC at NJAC 5:80-26. In the case of an odd number of affordable units, the split will always be in favor of the low income unit per NJAC 5:97-3.3 and the UHAC 5:80-26. Additionally, 13% of the total must be set aside for very low income households. The Tenaflly plan shall include the necessary ordinances to require applicants to adhere to these requirements and other affordability third round requirements. Once COAH publishes their model ordinances to address this issue, the Borough shall adopt these ordinances. In the meantime, the Borough has included in the appendix of this report its current Fair Share ordinances that impose these types of requirements.
5. Affirmative Marketing: The affordable units will be affirmatively marketed in accordance with COAH's rules at NJAC 5:97 et seq. and the UHAC 5:80-26.
6. Controls on Affordability: The affordable units will have 30 year affordability control deed restrictions in accordance with NJAC 5:97 et seq. and the UHAC 5:80-26. The appendix sets forth the Borough's current affordability controls. Once COAH publishes their model ordinances to address this issue, the Borough shall adopt these ordinances.
7. Bedroom Distribution: The affordable units on the two sites will meet the bedroom distribution requirements pursuant to the applicable regulations. The appendix sets forth the Borough's current affordability controls wherein the current bedroom distribution regulations are set forth. Once COAH publishes their model ordinances on this issue, the Borough shall adopt these ordinances.
8. Accessible and Adaptable: The affordable units on these two sites will meet the accessible and

adaptable requirements pursuant to COAH's regulations.

Zoning Regulations. The following area and bulk requirements shall be imposed on these sites to ensure the lots develop in a manner that is consistent with the concept plans set forth in the appendix.

Regulation	Site No. 1	Site No.2
Minimum Lot Area (ac)	0.75 acres	1.0 acre
Minimum Lot Width (ft)	125 feet	125 feet
Minimum Front Yard (ft)	25 feet	25 feet
Minimum Side Yards (ft)	15 feet	15 feet
Minimum Rear Yard (ft)	40 feet	40 feet
Maximum Density (du/ac)	26.5 du/ac	30.5 du/ac
Maximum Impervious Coverage (%)	75 percent	75 percent
Maximum Building Height (st/ft)	tbd	3 stories/--feet (tbd)

Rental Component and Bonus Credits. COAH regulations stipulate that at least 25 percent of a municipality's growth share obligation must be addressed with rental housing. The Borough is therefore obligated to provide at least five rental units. The regulations also enable the Borough to receive a maximum of 4 rental bonus credits.

The 4 rental bonus credits, coupled with the 13 rental affordable housing units that will result from the two above noted inclusionary developments, serve to affirmatively address the Borough's 17 of the 18 units that represent Tenaflly's affordable housing obligation. As noted above, the 18th affordable unit shall be addressed through the imposition of a market-to-affordability plan whereby the Borough shall acquire a market rate dwelling in the municipality and offer it as an affordable unit to an income qualified household.

Market-To-Affordable. Tenaflly shall establish a market-to-affordable program whereby, pursuant to COAH's regulations, the Borough shall acquire a dwelling in the municipality and make it available as an affordable housing unit to an income qualified household. The market-to-affordable unit shall be designed to adhere to Section 5:97-6.9 of the COAH Substantive Rules. As soon as the Borough has identified the specific dwelling that will become the market-to-affordable unit, it will notify COAH and submit the documentation to indicate the manner in which the project conforms with Section 5:97-6.9.

Development Fees. The Borough shall impose development fees as permitted by COAH's third round rules. A development fee ordinance has been prepared for the Borough's adoption. The funds generated by the collection of development fees will be applied directly toward implementation of the Borough's Fair Share Plan, including spending at least 30 percent of funds for affordability assistance.

Development fees of up to 1.5 percent of the equalized assessed value shall be collected on residential development. Development fees of 2.5 percent of the equalized assessed value shall be collected on non-residential development. Additional residential units resulting from a "d" variance will be subject to a six percent development fee. Additional non-residential floor-area resulting from a "d" variance will be subject to a six percent development fee. The development fee ordinance is in the appendix of this report.

APPENDIX: MAPS

APPENDIX: REPORTS, ORDINANCES AND WORKBOOK C

A - 1: Fair Share Ordinance (to be updated pending publication of COAH model for Third Round)

Fair Share Ordinance

This section of the Tenaflly Code sets forth regulations governing the manner in which low and moderate income housing units shall be required to adhere to COAH's provision.

1. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units and the remainder may be moderate-income units.
2. Except for inclusionary developments constructed pursuant to low income tax credit regulations:
 - a. at least half of all units within inclusionary development will be affordable to low income households; and
 - b. at least half of all rental units will be affordable to low income households; and
3. Affordable developments that are not age-restricted will be structured in conjunction with realistic market demands so that:
 - a. the combination of efficiency and one bedroom units is no greater than 20 percent of the total low and moderate income units; and
 - b. at least 30 percent of all low and moderate income units are two bedroom units; and
 - c. at least 20 percent of all low and moderate income units are three bedroom units; and
 - d. low and moderate-income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of senior citizen low and moderate income units within the inclusionary development.
4. In conjunction with realistic market information, the following criteria will be used in determining maximum rents and sale prices:
 - a. studio units will be affordable to one person households; and
 - b. one bedroom units will be affordable to one and one-half person households; and
 - c. two bedroom units will be affordable to three person households; and
 - d. three bedroom units will be affordable to four and one-half person households; and
 - e. median income by household size will be established by a regional weighted average of the

uncapped Section 8 income limits published by HUD as per N.J.A.C. 5:94-7.2(b); and

- f. the maximum rent for affordable units within each affordable development shall be affordable to households earning no more than 60 percent of median income.
 - g. the average rent for low- and moderate-income units must be affordable to households earning no more than 52 percent of median income. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units, provided that at least 10 percent of all low- and moderate-income units shall be affordable to households earning no more than 35 percent of median income
 - h. the maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income.
 - i. each affordable development must achieve an affordability average of 55 percent for restricted ownership units; moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
 - j. for both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an affordable development; and
 - k. low income units will be reserved for households with a gross household income less than or equal to 50 percent of the median income approved by COAH; moderate income units will be reserved for households with a gross household income less than 80 percent of the median income approved by COAH; and
 - l. the regulations outlined in N.J.A.C. 5:80-26.6 and 5:80-26.12 will be applicable for purchased and rental units.
5. For rental units, developers and/or municipal sponsors may:
- a. establish at least one rent for each bedroom type for both moderate- and low-income units; and
 - b. the initial rent, including an allowance for utilities, will be established so as not to exceed 30 percent of the gross monthly income of the appropriate household size as per N.J.A.C. 5:80-26.4(a). The tenant-paid utility allowance will be consistent with the utility allowance published by DCA for its Section 8 program.

6. For sale units:

- a. The initial purchase price for all restricted ownership units except those financed under UHORP or MONI shall be calculated so that the monthly carrying costs of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of an appropriate household size as determined under N.J.A.C. 5:80-26.4; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3.
- b. The master deeds of affordable developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers. Notwithstanding the foregoing sentence, condominium units subject to a municipal ordinance adopted before October 1, 2001, which provides for condominium or homeowner association fees and/or assessments different from those provided for in this subsection shall have such fees and assessments governed by said ordinance; and
- c. the Borough of Tenaflly will follow the general provisions concerning control periods for ownership units as per N.J.A.C. 5:80-26.5; and
- d. eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:80-26.9; and

7. In zoning for inclusionary developments the following is required:

- a. low and moderate-income units will be built in accordance with N.J.A.C. 5:94-4.4:

Minimum % of Low/Moderate Income Units Completed	% of Market Housing Units Completed
0	25
10	25+1 unit
50	50
75	75
100	100

- b. a design of inclusionary developments that integrates low and moderate-income units with market units is encouraged.

8. To provide assurances that low- and moderate-income units are created with controls on affordability over time and that low- and moderate-income households occupy these units, Tenaflly

will designate an administrative agency or municipal authority with the responsibility of ensuring this is maintained. The administrative agency or municipal authority will be responsible for those activities detailed in N.J.A.C. 5:80-26.14.

- a. In addition, the administrative or municipal authority will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:80-26.7 and 5:80-26.13 in placing households in low and moderate income units; and
 - b. Restricted sales units will remain affordable to low and moderate income households for at least 30 years. The administrative or municipal authority will require all conveyances of newly constructed units to contain the deed restriction and restrictive covenants adopted by COAH and referred to as Appendices A, B, C, D, L, M, N, O, P and Q as found in N.J.A.C. 5:80-26; and
9. Regarding rental units: Newly constructed low and moderate-income rental units will remain affordable to low and moderate income households for at least 30 years. The administrative agency or municipal authority will require an appropriate deed restriction adopted by COAH and referred to as Appendix A.
10. Section 14(b) of the Fair Housing Act N.J.S.A. 52:27D-301 et seq. incorporates the need to eliminate unnecessary cost generating features from Tenaflly's land use ordinances. Accordingly, Tenaflly will eliminate development standards that are not essential to protect the public welfare and to expedite or fast track municipal approvals/denials on inclusionary development applications. The Borough of Tenaflly will adhere to the components of N.J.A.C. 5:93-10.1 - 10.3.

A - 2: Development Fee Ordinance

**BOROUGH OF TENAFLY
BERGEN COUNTY, NEW JERSEY**

ORDINANCE NO. ____

An Ordinance Amending Article 6 Fees Section 35-606 of Chapter XXXV of the Code of the Borough of Tenaflly, entitled “Developer’s fees” to Conform with the Council on Affordable Housing’s Recently Adopted Third Round Regulations

WHEREAS, the purpose of this ordinance is to amend the Borough’s Code to adopt a new development fee ordinance and affordable housing trust fund ordinance that conforms with the Council on Affordable Housing’s recently adopted Third Round Regulations; and

WHEREAS, the purpose of this ordinance is to better protect the public health, safety, and general welfare of the residents of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Tenaflly as follows:

Section 1: The Code of the Borough of Tenaflly shall hereby be amended by adding Section ____, to read as follows:

§ ____. **Developer’s fees**

A. Purpose

- (1) In Holmdel Builders Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (“COAH’s”) adoption of rules.
- (2) Pursuant to P.L. 2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring, and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- (3) This ordinance establishes standards for the collection, maintenance, and expenditure of

development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

B. Basic requirements

- (1) This ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- (2) The Borough of Tenafly shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

C. Definitions. The following terms, as used in this ordinance, shall have the following meanings:

- (1) **AFFORDABLE HOUSING DEVELOPMENT.** A development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project, or a 100 percent affordable development.
- (2) **COUNCIL ON AFFORDABLE HOUSING.** The New Jersey Council on Affordable Housing established under the Fair Share Housing Act, which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.
- (3) **DEMOLISHED.** Any act or process that renders more than 50% of a structure or building unsafe for human occupancy or use shall be considered demolished for the purposes of this ordinance.
- (4) **DEVELOPMENT FEE.** Funds paid by any person for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- (5) **DEVELOPER.** The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- (6) **EQUALIZED ASSESSED VALUE.** The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).
- (7) **GREEN BUILDING STRATEGIES.** Those strategies that minimize the impact of development on the environment, and enhance the health, safety, and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure

and community services.

- (8) LIVING SPACE. All internal areas of a dwelling with a floor to ceiling height of greater than six feet, exclusive of garages which are not to be considered as living space..
- (9) NATURAL DISASTER. A catastrophic event, such as a hurricane, flood, earthquake, volcanic eruption, landslide, blizzard, or other natural phenomena that causes extensive human casualties, property damage, or both.

D. Residential Development fees.

(1) Imposed Fees.

- (a) For all residential developments, residential developers shall pay a fee of one and one-half percent (1.5%) of the equalized assessed value for residential development, provided no increased density is permitted.
- (b) When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(2) Eligible exactions, ineligible exactions, and exemptions for residential development

- (a) Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- (b) Developments that have received preliminary or final site plan approval prior to the

adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

- (c) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, except that expansion of an existing residential structure which increases the living space by less than 20% and/or the volume of the existing structure by less than 20% shall be exempt from paying a development fee. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
- (d) A dwelling that is constructed as a replacement for a dwelling that was demolished as a result of a natural disaster shall be exempt from paying a development fee. The dwelling that is constructed as a replacement dwelling must be constructed on the same site as the dwelling that was demolished as a result of a natural disaster.

E. Non-residential Development fees

(1) Imposed fees

- (a) Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (b) Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and

improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

(2) Eligible exactions, ineligible exactions, and exemptions for non-residential development.

(a) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5%) percent development fee, unless otherwise exempted below.

(b) The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations, and repairs.

(c) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

(d) A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L. 2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

(e) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough as a lien against the real property of the owner.

F. Collection procedures

- (1) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

- (2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF “State of New Jersey Non-Residential Development Certification/Exemption” to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provide in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated final assessments as per the instructions provided in Form N-RDF.
- (3) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (4) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (5) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (6) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (7) Should the Borough fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- (8) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- (9) Appeal of development fees
 - (1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected

fees shall be placed in an interest bearing escrow account by the Borough. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

- (2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

G. Affordable Housing Trust Fund

- (1) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) payments in lieu of on-site construction of affordable units;
 - (b) developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 - (c) rental income from municipally operated units;
 - (d) repayments from affordable housing program loans;
 - (e) recapture funds;
 - (f) proceeds from the sale of affordable units; and
 - (g) any other funds collected in connection with the Borough's affordable housing program.
- (3) Within seven days from the opening of the trust fund account, the Borough shall provide COAH

with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).

- (4) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

H. Use of funds

- (1) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable, housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8-7 through 8.9 and specified in the approved spending plan.
- (2) Funds shall not be expended to reimburse the Borough for past housing activities.
- (3) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.

- (b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall entitle the Borough to bonus credits pursuant to N.J.A.C. 5:96-18.
 - (c) Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (4) The Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (5) No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or and affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

I. Monitoring

The Borough shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

J. Ongoing Collection of Fees

The ability for the Borough to impose, collect, and expend development fees shall expire with its substantive certification on the date of expiration of substantive certification unless the Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough fails to renew its ability to impose and collect development fees prior to the date of expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough retroactively impose a development fee on such a development. The Borough will not expend development fees after the expiration of its substantive certification.

Section 2: All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are repealed, but only to the extent of any inconsistencies.

Section 3: The provisions of this ordinance are severable. If any part of this ordinance is declared to be unconstitutional or invalid by any court, the remaining parts of this ordinance will remain in full force and effect.

Section 4: This ordinance shall take effect after review and approval by COAH and final approval and publication according to law.

Introduced and passed first reading:

Passed second reading:

ATTEST:

APPROVED BY:

Nancy Hatten, Borough Clerk

Peter Rustin, Mayor

A - 3: Draft Resolution Requesting COAH to Review the Development Fee Ordinance

Draft Resolution Requesting COAH to Review the Development Fee Ordinance

WHEREAS, Borough of Tenaflly, Bergen County, was granted substantive certification by the Council on Affordable Housing (COAH) on July 2, 2003; and

WHEREAS, P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), permits municipalities that are under the jurisdiction of COAH or of a court of competent jurisdiction and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

WHEREAS, subject to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing (COAH) that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d) ;
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d) ;
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

WHEREAS, Borough of Tenaflly has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

NOW THEREFORE BE IT RESOLVED that the Governing Body of Borough of Tenaflly, Bergen County requests that COAH review and approve Tenaflly's development fee ordinance.

[insert name]
Municipal Clerk

A - 4: Draft Affirmative Marketing Ordinance

Draft Affirmative Marketing Ordinance

The Borough's Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the municipality is located and covers the period of deed restriction. The Plan will address the requirements of N.J.A.C. 5:80-26.15. In addition, the Plan prohibits discrimination in the sale, rental, financing or other services related to housing on the basis of race, color, sex, religion, handicap, age, familial status/size or national origin. The Borough of Tenaflly is in the housing region consisting of Bergen, Passaic, Hudson, and Sussex Counties. The affirmative marketing program is a continuing program and will meet the following requirements:

1. All newspaper articles, announcements and requests for applications for low and moderate income units will appear in the following newspapers/publications: The Record.
2. The primary marketing will take the form of at least one press release sent to the above publications and a paid display advertisement in each of the above newspapers. Additional advertising and publicity will be on an "as needed" basis.
3. The advertisement will include a description of the street address of units, direction to housing units, number of bedrooms per unit, range of prices/rents, size of units, income information, and location of applications including business hours, where/how applications may be obtained and application fees, if any.
4. All newspaper articles, announcements and requests for applications for low- and moderate-income housing will appear in publications such as neighborhood oriented weekly newspapers, religious publications and organizational newsletters within the region. Regional radio and/or cable television station(s) may also be used.
5. The following is the location of applications, brochure(s), sign(s) and/or poster(s) used as part of the affirmative marketing program including specific employment centers within the region: posting of notices in the Borough Hall, and delivery of notices to the municipal clerks of all municipalities in the region.
6. The following is a listing of community contact persons and/or organizations in Tenaflly that will administer the program and will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region: Borough Administrator, local housing authority, County housing office, and houses of worship.

7. Quarterly flyers and applications will be sent to each of the following agencies for publication in their journals and for circulation among their members: Board of Realtors in Bergen, Hudson, Passaic, and Sussex Counties.
8. Applications will be mailed to prospective applicants upon request.
9. Additionally, quarterly informational circulars and applications will be sent to the chief administrative employees of each of the following agencies in the counties within Tenaflly's region: welfare or social service board, rental assistance office (local office of DCA), Office on Aging, libraries, and housing agency or authority in each of the counties within Tenaflly's housing region.
10. A random selection method will be used to select occupants of low- and moderate-income housing.
11. The Borough's administrative management service shall administer the affirmative marketing program for for-sale units. The Borough's land use administrator will administer the affirmative marketing program for rental units until such time as the Borough appoints an administrative management service for rental units. The land use administrator, or administrative management service, has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to qualify households for reoccupancy of units as they become vacant during the period of affordability controls; to assist with advertising and outreach to low- and moderate-income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26.
12. Households who live or work in the COAH-established housing region may be given preference for sales and rental units constructed within that housing region. Applicants living outside the housing region will have an equal opportunity for units after regional applicants have been initially serviced. The Borough of Tenaflly intends to comply with N.J.A.C. 5:94-7.3 and N.J.A.C. 5:80-26.15.
13. All developers of low- and moderate-income housing units will be required to assist in the marketing of the affordable units in their respective developments.
14. The marketing program will commence at least 120 days before the issuance of either temporary or permanent certificates of occupancy. The marketing program will continue until all low- and moderate-income housing units are initially occupied and for as long as affordable units are deed restricted and occupancy or re-occupancy of units continues to be necessary.

A -5: Workbook C- Adjusted Growth Share Projection based on Land Capacity

A -6: Service List